

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT  
219 South Dearborn Street  
Chicago, Illinois 60604

August 6, 2021

Judge Michael S. Kanne\*

No. 07-21-90037

IN RE COMPLAINT AGAINST A JUDGE:

MEMORANDUM

Complainant filed a misconduct complaint against the judge who presided over another's criminal case and is currently considering a motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(2)(A). She alleges undue delay in ruling on the motion, which was filed in September 2020 and remains pending today. Allegations of delay do not raise a cognizable basis for a misconduct complaint absent evidence of improper motive or habitual delay in a substantial number of cases. *See* R. FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 4(b)(2). No such evidence exists here. Courts have faced scores of compassionate release motions since the onset of the COVID-19 pandemic. *See* U.S. SENTENCING COMM'N, COMPASSIONATE RELEASE DATA REPORT (CALENDAR YEAR 2020) (stating that more than 12,000 such motions were filed nationwide in 2020). In addition, complainant has not shown pervasive or habitual delay by this judge. Finally, to the extent that the allegation challenges the correctness of the judge's official actions, it is not a proper ground for a misconduct complaint. 28 § 352(b)(1)(A)(ii). "Any allegation that calls into question the correctness of an official action of a judge ... is merits related." Standard 2 for Assessing Compliance with the Act, *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice* 145 (2006).

The complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and (b)(1)(B).

\*Chief Judge Diane S. Sykes is disqualified from this matter. Judge Michael Kanne is deciding the complaint as the next most-senior active circuit judge. *See* R. FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(a) and 25(a).